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**BY FACSIMILE**

November 2, 1994

**MEMORANDUM TO THE COMMITTEE OF COUNSEL**

I called Don Shopland of NCI yesterday afternoon for information about the December 5-6 conference on the FTC test method.

**Expert panel.** Shopland told me that the NCI expert panel would include:

Harold Freeman, Harlem Hospital, Chairman  
Dileep Bal, California Department of Health  
Fred Bock, "independent consultant," Florida  
Dorothy Hatsukami, University of Minnesota  
Sandra Headen, University of North Carolina  
Dietrich Hoffmann, American Health Foundation  
John Hughes, University of Vermont  
Diana Petitti, Kaiser Permanente  
William Rickart, Canada, Laboratory Statistics  
Saul Shiffman, University of Pittsburgh  
Maxine Stitzer, Johns Hopkins University  
Ray Woosley, Georgetown University

**Non-industry presenters.** Shopland told me that the presenters, other than industry representatives, would include:

Neal Benowitz, University of California  
Joel Cohen, University of Florida  
Gary Giovino, CDC  
Mike Guerrin, Oak Ridge National Laboratory  
Jeffrey Harris, MIT/Harvard  
Jack Henningfield, NIDA  
Dietrich Hoffmann, American Health Foundation  
Lynn Kozlowski, Addiction Research Foundation, Canada  
Lee Peeler and Harold Pillsbury (FTC)  
Jonathan Samet, University of New Mexico

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Maxine Stitzer, Johns Hopkins University  
James P. Zachny

Shopland said this is the complete list of non-industry presenters. He indicated that it would be open to us to offer one or more industry presenters. He stated that no opportunity would be provided for public comment.

**Structure.** Shopland told me that the presenters will make their presentations to the expert panel on December 5, and the expert panel will question the presenters on the morning of December 6 and then meet to agree upon findings and recommendations on the afternoon of December 6. I asked Shopland whether the presenters would be permitted to question each other. Shopland agreed that this might be useful and said that he would consider it.

**Schedule.** Shopland told me that he doesn't expect anyone to submit more than a one-page outline of their presentations by November 14. He promised to send me copies for distribution to the companies of whatever he receives and sends to the expert panel. He said that the November 14 deadline was meant for copies of any studies or published work of which NCI might not be aware, and that NCI did not mean to force anyone to complete their presentations by that time. He said that the expert panel already has an "extensive bibliography" of pertinent published material.

**Scope.** I noted that Dr. Broder's letter suggested a more narrow focus than that proposed by the Federal Trade Commission in its letter to NCI seeking the conference. Shopland confirmed that NCI did not intend to address all of the issues that the FTC had raised, or to address them all in the detail that the FTC had proposed, but he did note that issues such as compensatory smoking behavior and consumer confusion are relevant in considering the usefulness of the current FTC test method. The list of presenters suggests that the test method will be attacked from all angles and that T&N and related claims in cigarette advertising will be put in issue.

**NCI action.** Shopland said that if the expert panel concludes that the current test method is basically sound, that will be the end of the matter. He said that if the expert panel concludes that the test method is flawed or needs further study, it will likely kick the matter back to the FTC for further consideration. I surmise that NCI is not pleased to have been handed the task of assessing the FTC test method and wishes to hand the matter back to the FTC as quickly as possible.

**Conference call.** I am arranging a conference call with our working group for Thursday, November 3, at 11:00 a.m. or 4:00 p.m., depending on availability. If you wish to be on the call, please let my secretary know.

David H. Remes

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cc: Mr. Bezanson  
Mr. Decker  
Mr. Blixt  
Mr. Chilcote  
Mr. Firestone  
Mr. Holton  
Mr. Reiman  
Mr. Verheij

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